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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,285	05/04/2006	Klaus Sickert	DE03 0374 US1	1830

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NXP, B.V.
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EXAMINER

ST CYR, DANIEL

ART UNIT	PAPER NUMBER
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2876

NOTIFICATION DATE	DELIVERY MODE
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02/15/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

Office Action Summary	Application No. 10/578,285	Applicant(s) SICKERT ET AL.	
	Examiner Daniel St.Cyr	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to the applicant's amendment filed in which claims 1-7 were canceled and claims 8-13 were added.

Claim Objections

2. Claims 11-13 are objected to because of the following informalities: Claims 11 and 13 seems to be in independent format, if so reformat the claims to list all the limitations to clearly show the claims are independent claims. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over TAMURA at al. (hereafter "Tamura")----Japanese Patent Application publication No.: JP2001092934 published on 4/06/2001--in view of Pickett et al. (hereafter "Picket")--U.S. Patent No.: 5,451,763.

Tamura (see FIGs 1-8 and entire machine-translated documents) discloses an electronic data carrier in the form of an identification card 10 designed for contact less communication with a read/write base station (not shown); said data carrier comprising:

- first and second page areas;
- one connection axis 16 provided between said first and second page areas, wherein said first and second page areas can folded apart from or towards one another between unfolded and

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folded positions determining thereby an open state and a closed state respectively, and wherein said data carrier is operable to transmit/receive information in the unfolded (i.e. open state) and said data carrier is inhibited from transmitting/receiving information in the folded (i.e. closed state);

- at least one electronic circuit 20;

at least one coupling element 22 conductively connected to said circuit 20 for transmitting/receiving information to/from a read/write base station (not shown), wherein the coupling element is embedded into said first and second page areas.

Tamura does not expressly disclose the coupling element is designed as at least one capacitive element, wherein the coupling element is designed in the form of a capacitive plate.

Pickett discloses reading data from, writing data to and storing data in an electronic data carrier (IC card), utilizing an external read/write unit. The data carrier (IC card 12) comprises capacitive plates 24 and 26 disposed on the card's substrate 86. The read/write unit comprises capacitive plates 36 and 38 disposed such that when the card 12 is disposed within the receptacle 16, the card's capacitive plates 24 and 26 are proximate to the read/write unit capacitive plates 36 and 38. Information data is capacitively transferred between IC 'card 12 and the read/write unit via corresponding capacitive plates. The data carrier may be programmed for data protocols and access codes so that different data protocols may be used to input data and the data may be protected using a PIN. See Abstract, Figs. 1-5 with corresponding descriptive text (C3,L64 thru C7,L10).

Tamura and Pickett disclose an electronic data carrier comprising at least one coupling element designed for communication with a read/write base station.

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify and/or add an at least one coupling element in the form of at least one capacitive plate (as taught by Pickett) in the invention of Sakae for the benefit of--for example--realizing an electronic data carrier at minimal thickness with high mechanical flexibility and operable to precisely tune to the correct communication frequency that a read/write base station might work. As taught by Pickett (C6,L20-23), capacitive plates may be manufactured from conductive materials such as titanium, which is known to those skilled in the art high mechanical flexibility even if used in minimal amounts. Additionally, as it is commonly known to those skilled in the art, the coupling capacitance (and thereby the communication frequency) between the data carrier and a read/write base station would be easily changed (i.e. tuned) by varying the distance between the corresponding capacitive plates.

Response to Arguments

5. Applicant's arguments filed 12/20/07 have been fully considered but they are not persuasive. (see examiner remarks).

REMARKS:

In response to the applicant's argument that the references should not be combined, the examiner respectfully disagrees. While Tamura uses a coil for facilitating contact-less transmission between the data carrier and the base station, to employ capacitive element in lieu of would have been an obvious extension to an ordinary skill in the art since they are both (coil coupling means and capacitive means) are functionally equivalent and are well known in the art. And to substitute the coil element with the capacitive element would not render the system of Tamura unable to perform read/write operation. Antenna coils and capacitive circuits are capable

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of performing wireless communication. The system of Tamura in conjunction with Pickett renders all the functional and method steps obvious.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The applicant's arguments are not persuasive. Refer to the rejection above.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DS

/Daniel St.Cyr/
Primary Examiner,
Art Unit 2876

February 15, 2008